

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

JEANE BOLIN
Plaintiff,

vs.

**STATE AUTOMOBILE MUTUAL
INSURNACE COMPANY**
Defendant.

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1:17-cv-00364
Civil Action Number

Jury

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant, State Automobile Mutual Insurance Company ("State Auto"), files this Notice of Removal pursuant to 28 U.S.C. §1446(a), and respectfully shows as follows:

**I.
INTRODUCTION**

1. Plaintiff is Jeane Bolin (hereinafter "Plaintiff"); Defendant is State Automobile Mutual Insurance Company (hereinafter "State Auto" or "Defendant"). There are no other parties. *See* Plaintiff's Original Petition, attached as Exhibit "A - 1".

2. On March 28, 2017, Plaintiff filed Cause No. D-1-GN-17-001332, *Jeane Bolin vs. State Automobile Mutual Insurance Company* in the 126th Judicial District Court of Travis County, Texas ("State Court Action"). *See* Exhibit "A - 1". Plaintiff's suit alleges breach of contract, violations of the Texas Insurance Code, violations of the Texas Deceptive Trade Practices Act, fraud, and breach of the duty of good faith and fair dealing, relating to damage allegedly suffered at Plaintiff's property located at 2238 Hwy 163, Colorado City, Texas 79512. *See* Exhibit "A - 1". Plaintiff demanded a trial by jury in her Original Petition. *See* Exhibit "A - 1."

3. A citation was issued and State Automobile Mutual Insurance Company was served on March 30, 2017. *See* Exhibit “A – 3” and Affidavit of Mike Myers attached as Exhibit “B”. State Auto files this Notice of Removal within the 30-day time period required by 28 U.S.C. §1446(b). *Bd. of Regents of Univ. of Tex. Sys. v. Nippon Tel. & Tel. Corp.*, 478 F.3d 274, 278 (5th Cir. 2007).

4. Plaintiff has not filed any amended pleadings and no additional parties have been joined. The State Court’s Docket Sheet is attached as Exhibit “A - 4.”

II.
REMOVAL BASED ON DIVERSITY JURISDICTION

5. Pursuant to 28 U.S.C. §1332(a), State Auto removes this case as it involves a controversy between parties of diverse citizenship and an amount in controversy that exceeds \$75,000.

6. Plaintiff is a citizen of Texas. *See* Exhibit “A - 1”. State Auto is a foreign corporation organized under the laws of the state of Ohio with its principal place of business located at 518 E. Broad Street, Columbus, Ohio 43215. *See* Exhibit “B.”

7. Additionally, the amount in controversy exceeds \$75,000, excluding interest and costs. 28 U.S.C. §1332(a). Plaintiff’s Original Petition seeks monetary relief “over \$200,000 but not more than \$1,000,000.” *See* Exhibit “A – 1.”

8. State Auto is the only defendant in this action; therefore, no consent is needed for the removal of this case to federal court.

9. An Index of Exhibits is attached as Exhibit “A”. Copies of all pleadings, process, orders, and other filings in the State Court Action are attached to this notice as Exhibits “A - 1” through “A – 3” as required by 28 U.S.C. §1446(a).

10. Venue is proper in this district under 28 U.S.C. §1441(a) because the state court where the suit has been pending is located in this District and within this Division.

11. State Auto will promptly file a copy of this Notice of Removal with the clerk of the court in the pending State Court Action.

III.
JURY DEMANDED

12. Plaintiff demanded a jury in the State Court Action.

IV.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant, State Automobile Mutual Insurance Company, prays that this case be removed to the United States District Court for the Western District of Texas, Austin Division, and that further proceedings in the State Court Action be discontinued, and that this Court assume full jurisdiction over such action as provided by law.

Respectfully submitted,

/s/ Sterling Elza
Sterling Elza
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**ATTORNEY FOR DEFENDANT,
STATE AUTOMOBILE MUTUAL
INSURANCE COMPANY**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing was served upon the Plaintiff by serving her counsel of record, Mike O'Brien, Mike O'Brien, P.C., 14355 Highway 105, Washington, Texas 77880, (713) 222-0888 via fax and certified mail, return receipt requested, and Dalli H. Seyb, Law Office of Dalli H. Seyb, 752 Main Street, Suite 164, Mansfield, Texas 76063 via certified mail, return receipt requested, in accordance with the Federal Rules of Civil Procedure, on this the 21st day of April, 2017.

/s/ Sterling Elza

Sterling Elza